THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.4648 of 2006

Dated: 10-04-2006

Between:

P.Subba Rao

..... PETITIONER

AND

The Mandal Revenue Officer,
Aswaraopeta Mandal, Khammam District
And three others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.4648 of 2006

O R D E R:

The petitioner claims to be in possession and enjoyment of land admeasuring Acs.9.06 guntas in Sy.No.167/2 situated in Jammigudem village of Aswaropeta Mandal, Khammam District. It is stated that on 04-02-2006 the Mandal Revenue Officer, Aswaraopeta conducted a panchanama as to delivery of possession purportedly in pursuance of the order of ejectment dated 21-08-1997 passed by the Special Deputy Collector, Palvancha against the petitioner in exercise of powers conferred under Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation Rules, 1969 as amended by Regulation 1 of 1970. The petitioner pleads that the order dated 21-08-1997 was never communicated to him and he was also not served with any notice before passing the said order. It is also stated that he could obtain a copy of the order dated 21-08-1997 passed by the Special Deputy Collector, Palvancha only on 22-02-2006 and since he has been continuing in possession and enjoyment of the land in question by cultivating the same, this writ petition is filed seeking a declaration that the action of the respondents in dispossessing the petitioner as arbitrary and illegal.

This Court, on 09-03-2006, ordered *status quo* as on that date shall be maintained.

Learned Government pleader for Social Welfare at the outset raised an objection stating that against the order dated 21-08-1997 passed by the Special Deputy Collector, Palvancha a remedy of appeal is available, and therefore, the petitioner cannot maintain this writ petition without exhausting the alternative remedy available under the statute. Learned Government Pleader, under instructions, also states that as a matter of fact, the Special Deputy Collector, Palvancha passed orders in altogether eleven(11) cases on 21-08-1997 and three persons, who are similarly situated, have already preferred appeals before the Agent to the Government.

Having regard to the facts and circumstances of the case, particularly, keeping in view that the question whether the petitioner herein was served with any notice in the proceedings initiated before the third respondent-Special Deputy Collector, Palvancha and whether the copy of the order of ejectment dated 21-08-1997 was communicated to the petitioner, were all pure questions of fact, I am of the opinion that without exhausting efficacious alternative remedy of appeal, the petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner to work out the alternative remedy of appeal available under law. Keeping in view the plea of the petitioner that there is a standing crop on the land in question, *status quo* ordered by this Court on
09-03-2006 shall be maintained for a period of six weeks from today. No costs.

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G.ROHINI,J

Dated:10-04-2006

Note: Issue C.C. in three days.

B/o

KLP